



National Aeronautics and Space  
Administration  
Goddard Space Flight Center

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# ANNOUNCEMENT

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## SUBJECT: Administrative Claims for Annual Leave for Those Charged Military Leave

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In a July 24, 2003, decision, *Butterbaugh v. Department of Justice*, the US Court of Appeals for the Federal Circuit ruled that, pursuant to 5 U.S.C. 6323, employees were required to take military leave only on days on which they were required to work and that agencies should have allowed 15 workdays of military leave for reserve training (instead of calendar days, as the language in this section was previously interpreted and applied prior to the court's rulings). Therefore, the court ruled that agencies should not have charged military leave for nonworkdays that occurred within the period of military duty prior to the change in the military leave law that became effective on December 21, 2000. On this date, 5 U.S.C. 6323(a) was amended to include a new paragraph (3), which for the first time allowed employees to take military leave on an hourly basis. Following enactment of this amendment, employees were no longer required to take leave for nonworkdays.

Under the Barring Act of 1940, a leave claim must be received by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues. Therefore, Goddard may accept claims filed after July 24, 2003 (the date the decision was issued), for crediting additional leave for military leave charged to nonworkdays between the date 6 years prior to the claim filing date (the beginning of the 6-year claims period) and December 21, 2000 (the date of the change in the military leave law). For example, if an employee files a claim on January 15, 2005, Goddard will consider any period of military service between January 15, 1999, and December 21, 2000, in crediting annual leave. Credit will only be given for service performed through December 21, 2000.

As in all leave claims, the burden of proof is on the employee. An employee making a claim must supply a copy to his or her employing agency orders, certification of attendance, or other documentation indicating that he or she engaged in one or more periods of activity military duty that included nonworkdays during the applicable claims period described in the preceding paragraph. Employees will be credited 1 day of annual leave for each nonworkday occurring within the period of active duty for which he or she was charged military leave. A maximum of 4 days of annual leave may be credited for each fiscal year.

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**Any annual leave credited to the employee will be placed in a restored leave account and will have to be exhausted within 2 years after the date of restoration.**

**If you served in the military previously and believe your situation is applicable to this new law, and/or you need assistance in making a claim, please contact Khrista White, HR Specialist, at x6-9059.**

**(original signed by Nichole Richmond, for...)**

**Arletta R. Love, Chief  
Learning and Worklife Office**